

REMARKS

The Office Action dated March 11, 2009 has been received and carefully reviewed. In view thereof, claim 7 has been cancelled in its entirety without prejudice or disclaimer of the subject matter set forth therein. Accordingly, claims 1-6, 8 and 9 are presently pending in the application, of which, claims 1-2 have been withdrawn. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Initially, it is noted that the Examiner acknowledges, on page 2 of the Office Action, Applicant's claim for foreign priority based on an application filed in Japan on November 7, 2002. However, no such claim for priority has been made. The present application was placed on file with the U.S. Patent and Trademark Office on filed on March 24, 2004 which is more than a year following the filing of the noted Japanese application. Accordingly, priority has not been claimed in such application as noted from Applicant's originally filed declaration.

Turning now to page 3 of the Office Action, claim 7 has been rejected under 35 U.S.C. § 1112, first paragraph, as failing to comply with the written description requirement. In this regard, as can be seen from the foregoing amendments, claim 7 has been cancelled in its entirety without prejudice or disclaimer of the subject matter set forth therein. Accordingly, further discussion with respect to the merits of the rejection is no longer believed to be warranted.

Further on page 3 of the Office Action, claims 3 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,250 issued to Brinck et al. in view of U.S. Patent No. 6,779,707 issued to Dracup et al. On page 6 of the Office Action, claim 4 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,250 issued to Brinck et al. in view of U.S. Patent No. 6,779,707 issued to Dracup et al. and further in view of AAPA (applicant's admitted prior art) and claims 5 and 6 have

been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,250 issued to Brinck et al. in view of U.S. Patent No. 6,779,707 issued to Dracup et al. and further in view of AAPA (applicant's admitted prior art) and U.S. Patent No. 6,780,525 issued to Litwinski, while claim 8 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,250 issued to Brinck et al. in view of U.S. Patent No. 6,779,707 issued to Dracup et al. and further in view of U.S. Patent Publication No. 2003/0080251 to Anast. Each of these rejections are respectfully traversed in that the combinations proposed by the Examiner clearly fail to disclose or suggest, that which is presently set forth by Applicant's claimed invention.

With respect to the rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,250 issued to Brinck et al. in view of U.S. Patent No. 6,779,707 issued to Dracup et al. and further in view of U.S. Patent No. 6,450,394 issued to Wollastone et al., as noted hereinabove, claim 7 has been cancelled in its entirety without prejudice or disclaimer of the subject matter set forth therein. Accordingly, further discussion with respect to the merits of the rejection is no longer believed to be warranted.

Independent claim 3 recites a method for fabricating a frame, comprising the steps of preparing an outer frame member of T-shaped section having an extension extending inwardly, the outer frame member being formed to have an elongate shape and being curved, said extension having a top surface, a bottom surface and an inner curved edge surface, preparing an inner frame member having a flat portion abutting against the extension of the outer frame member, the inner frame member being formed to have an elongate shape and being curved in accordance with the shape of the longitudinal direction of the outer frame member, said flat portion having an upper surface, a lower surface and an outer curved edge surface, and friction stir welding the outer frame member and the inner frame member along

a curve on a seam formed between the outer curved edge surface and the inner curved edge surface with the inner curved edge surface of the extension of the outer frame member abutted against the outer curved edge surface of the flat portion of the inner frame member. That is, in accordance with Applicant's claimed invention, the outer frame member and inner frame member are friction stir welded together by way of the curved seam formed between the outer curved edge surface of the inner frame member and the inner curved edge surface of the outer frame member with the inner curved edge surface of the outer frame member abutted against the outer curved edge surface the inner frame member. The combination proposed by the Examiner nowhere eludes to this method.

That is, in reviewing the teachings of Brinck et al. it is noted that this reference discloses nothing more than forming a bond between two overlapped members. As noted from column 6, lines 17-30 of Brinck et al. wherein the formation of the frame profile is discussed,

“As the next step, the frame profile members 10 will be welded onto the frame root members 11, preferably by a two-sided or a one-sided butt welded joint. Each frame profile member 10 may have been prefabricated by any known method, or by different methods respectively. One possibility is that the frame profile member 10 is fabricated as a stretch-formed extruded profile semi-finished part, or that it is fabricated of several different components that are welded or riveted together, for example. For reasons of strength and stability, the frame profile member 10 has an outer flange 10A extending continuously in the aircraft circumferential direction as described above, and this outer flange 10A is welded onto the free edge of the frame root member 11.”

it is clear that the frame profile members 10 and root members 11 are overlapped and butt welded. In line 19, this Brinck et al. refers to the use of a two-sided or one-sided butt weld. Further, in lines 25-30 of column 6, Brinck et al. notes that the frame profile member includes an outer flange 10A and that the outer flange 10A is welded onto the free edge of the frame root member 11. Accordingly, the frame root member 11 must overlap the lower

portion of the frame profile member 10 in order for the free edge of the frame root member 11 to be in contact with and welded to the outer flange 10A. Accordingly, while the Examiner contends that a butt weld is carried out on a seam formed between the outer curved edge surface and the inner curved edge surface with the inner curved edge surface and the inner curved edge surface of the extension of the outer frame member abutted against the outer curved edge surface of the inner frame member, this is clearly not the case as the members are overlapped in this region.

As to the teachings of Dracup et al., while Dracup et al. may disclose a process which includes friction stir welding, like Brinck et al., the members being welded to one another are overlapped with one another. While the Examiner states on page 5 of the Office Action that “It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the process of Brinck et al. to weld the frames by friction stir welding as taught by Dracup et al. since said welding process lends itself to be a simple technique...” Such combination does not achieve that which is specifically set forth by Applicant’s claimed invention.

That is, Brinck et al. fails to disclose or remotely suggest welding the outer frame member and inner frame member together by way of the curved seam formed between the outer curved edge surface of the inner frame member and the inner curved edge surface of the outer frame member with the inner curved edge surface of the outer frame member abutted against the outer curved edge surface the inner frame member, as is specifically set forth in independent claim 3. While Dracup et al. discloses the process of friction stir welding to be known, if this teaching is combined with the teachings of Brinck et al., the result is nothing more than two overlapping members (10 and 11) being friction stir welded together with a free edge of one of the members (11) also being welded to the side surface of a perpendicular

member (10A). The free edges of the adjacent members are not abutted against one another and welded as is specifically set forth by Applicant's claimed invention.

As to the teachings of Applicant's Admitted prior art, Litwinski, or Anast, each of these references likewise fail to overcome the aforementioned shortcomings of the proposed combination of references. Accordingly, it is respectfully submitted that applicant's claimed invention as set forth in independent claim 3 as well as those claims which depend therefrom, clearly distinguishes over the combinations proposed by the Examiner and is in proper condition for allowance.

Therefore, in view of the cancellation of claim 7 as well as the foregoing remarks, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, that claims 3-6, 8 and 9 be allowed and that the application be passed to issue.

Should the Examiner believe a conference would of benefit in expediting the issuance of the present application, the Examiner is respectfully invited to telephone counsel to arrange such a conference.

Further, while no fees are believed to be due in connection with the filing of this response, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4525.

Respectfully submitted,

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